



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 17, 2013

Ms. Xochytl D. Greer  
Attorney  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056

OR2013-21966

Dear Ms. Greer:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 508645 (Friendswood File No. 4396-00/W. Simons).

The City of Friendswood (the "city"), which you represent, received a request for a list of all complaints from a named individual made during a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request for information because it was created after the date the request was received by the city. This ruling does not address the availability of information that is not responsive to the request, and the city is not required to release this information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by the common-law informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to

the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law* § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5.

You seek to withhold the identity of an individual who reported a possible violation of a city ordinance to the city's Code Compliance Department (the "department"). You state a violation of the city ordinance can result in the imposition of a fine. You explain the department is the administrative authority with a duty of inspection under this ordinance. Upon review, we find you have demonstrated the applicability of the common-law informer's privilege to the information at issue. Additionally, we agree although the requestor knows the complainant's identity, he does not know the identity in relation to any specific complaint. Accordingly, the information at issue may be withheld in its entirety in order to protect the informer's identity. Therefore, the city may withhold the requested information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.<sup>1</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Debbie K. Lee  
Assistant Attorney General  
Open Records Division

DKL/sdk

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<sup>1</sup>In this instance, the requestor knows the identity of the complainant. Should the city receive another request from an individual who does not know the name of the complainant, it must seek another decision from this office.

Ref: ID# 508645

Enc. Submitted documents

c: Requestor  
(w/o enclosures)